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Arizona Corporation Commission

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FROM: Steven M. Olea  
Director  
Utilities Division

~~ARIZONA CORPORATION COMMISSION~~  
~~DOCKET CONTROL~~

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DATE: July 27, 2010

RE: IN THE MATTER OF THE APPLICATION OF DSI-ITI, LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR PAY TELEPHONE PROVIDERS (DOCKET NO. T-20734A-10-0127); IN THE MATTER OF THE APPLICATION OF DSI-ITI, LLC FOR APPROVAL FOR AUTHORIZATION TO ENCUMBER AND/OR MORTGAGE ITS ASSETS (DOCKET NO. T-20734A-10-0128); IN THE MATTER OF THE APPLICATION OF DSI-ITI, LLC FOR APPROVAL OF THE PURCHASE AND TRANSFER OF ASSETS OF ITI INMATE TELEPHONE, INC. (DOCKET NO. T-20734A-10-0129 AND T-20608A-10-0129)

Attached is the Staff Report for the above referenced applications. The Applicant is applying for approval to:

- Provide Pay Telephone Service;
- Encumber and/or mortgage its assets; and,
- Purchase and transfer assets from ITI Inmate Telephone, Inc.

Staff is recommending approval of the applications.

SMO:AFF:kdh

Originator: Armando Fimbres

SERVICE LIST FOR: DSI-ITI, LLC and ITI INMATE TELEPHONE, INC.  
DOCKET NOS.: T-20734A-10-0127 et.al.

Mr. Lance J.M. Steinhart, Esq.  
Lance J.M. Steinhart, P.C.  
1720 Windward Concourse, Suite 115  
Alpharetta, Georgia 30005

STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

DSI-ITI, LLC  
AND  
ITI INMATE TELEPHONE, INC.

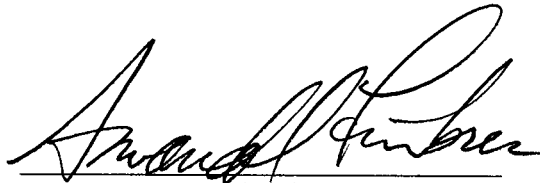
DOCKET NOS. T-20734A-10-0127  
T-20734A-10-0128  
T-20734A-10-0129  
T-20608A-10-0129

IN THE MATTER OF THE APPLICATION OF DSI-ITI, LLC FOR APPROVAL OF A  
CERTIFICATE OF CONVENIENCE AND NECESSITY FOR PAY TELEPHONE  
PROVIDERS; IN THE MATTER OF THE APPLICATION OF DSI-ITI, LLC FOR  
APPROVAL FOR AUTHORIZATION TO ENCUMBER AND/OR MORTGAGE ITS  
ASSETS; IN THE MATTER OF THE APPLICATION OF DSI-ITI, LLC FOR APPROVAL OF  
THE PURCHASE AND TRANSFER OF ASSETS OF ITI INMATE TELEPHONE, INC.

JULY 27, 2010

## STAFF ACKNOWLEDGMENT

The Staff Report for DSI-ITI, LLC, Docket Nos. T-20734A-10-0127, T-20734A-10-0128 and T-20734A-10-0129, was the responsibility of the Staff member listed below. Armando Fimbres was responsible for the review and analysis of DSI-ITI, LLC's application for a Certificate of Convenience and Necessity to provide pay telephone service, to encumber and/or mortgage its assets, and for approval to purchase and transfer assets of ITI Inmate Telephone, Inc.

A handwritten signature in black ink, appearing to read 'Armando Fimbres', written over a horizontal line.

Armando Fimbres  
Public Utility Analyst V

## **TABLE OF CONTENTS**

	<b>Page</b>
<b>1. INTRODUCTION.....</b>	<b>1</b>
<b>2. THE PARTIES.....</b>	<b>1</b>
<b>3. APPLICATION FOR PAY TELEPHONE SERVICE AUTHORITY.....</b>	<b>2</b>
<b>4. APPLICATION TO PURCHASE AND TRANSFER ASSETS FROM ITI INMATE, INC .....</b>	<b>3</b>
<b>5. APPLICATION TO ENCUMBER AND/OR MORTGAGE ASSETS.....</b>	<b>3</b>
<b>6. RECOMMENDATIONS.....</b>	<b>4</b>

## 1. INTRODUCTION

On April 5, 2010, DSI-ITI, LLC ("DSI") filed applications to request a Certificate of Convenience and Necessity ("CC&N") to provide customer owned pay telephone ("COPT") service in the State of Arizona, to encumber and/or mortgage its assets in connection with proposed financing arrangements and to purchase and transfer the assets of ITI Inmate Telephone, Inc. ("ITI")

On April 15, 2010, Staff requested via email the Asset Purchase Agreement executed by DSI and ITI and inquired if ITI was seeking to retain its COPT CC&N following the transfer of all assets to DSI. DSI provided the Asset Purchase Agreement on April 16, 2010.

Since the three applications filed on April 5, 2010 are substantially related, Staff filed a request to consolidate the three applications on April 23, 2010. ITI filed a request to cancel its COPT CC&N on May 4, 2010. The three applications were consolidated by Procedural Order dated June 17, 2010.

## 2. THE PARTIES

### *DSI-ITI, LLC*

DSI is a privately-held Delaware limited liability company whose principal offices are located at 2609 Cameron Street, Mobile, Alabama 36607. DSI is a wholly-owned direct subsidiary of Global Tel\*Link Corporation ("GTL"), the sole managing member of DSI. DSI proposes to provide managed telecommunications services to inmates of state and county departments of corrections by owning and operating prison payphones and public payphones.

### *ITI Inmate Telephone, Inc.*

ITI is a privately-held Pennsylvania corporation whose principal offices are located at 5000 Sixth Avenue, Altoona, Pennsylvania 16602. ITI is engaged in the business of providing inmate telephone and telecommunications services and related services to jails, prisons, correctional facilities and other types of confinement facilities (whether public, private or otherwise) and probation departments, including, but not limited to, the installation, operation, servicing and maintenance of non-coin operated, web-based inmate telephone systems, offender management systems, inmate call tracking systems, inmate call data mining investigative tools, kiosk-based debiting systems for inmate commissaries, and other inmate-related or probationer-related information management systems (such business, collectively, the "Business"). ITI was granted a CC&N to provide COPT services in Arizona on April 7, 2009 in Decision No. 70949. ITI provides these services in approximately 25 states.

### *Global Tel\*Link Corporation*

GTL is a privately-held Delaware corporation whose principal offices are located at 2609 Cameron Street, Mobile, Alabama 36607. GTL is a wholly-owned direct subsidiary of GTEL

Holdings, Inc. GTL is engaged in the business of providing managed telecommunications services to inmates of state and county departments of corrections and in owning and operating prison payphones and public payphones. GTL provides these services throughout most of the continental United States. GTL was granted a CC&N to provide COPT services in Arizona on December 20, 1995 in Decision. No. 59429.

*GTEL Holdings, Inc.*

GTEL Holdings, Inc. ("GTL Holdings") is a privately held Delaware corporation whose principal offices are located at 2609 Cameron Street, Mobile, Alabama 36607. GTEL Holdings is a holding company, whose only business activities are conducted through GTL. GTEL Holdings is a wholly owned direct subsidiary of GTEL Acquisition Corp.

*GTEL Acquisition Corp.*

GTEL Acquisition Corp. is a privately held Delaware corporation whose principal offices are located at 590 Madison Avenue, 41st Floor, New York, New York 10022. GTEL Acquisition Corp. is a holding company, whose only business activities are conducted through GTL. GTEL Acquisition Corp. is wholly owned by GTEL Holding LLC.

*GTEL Holding LLC*

GTEL Holding LLC is controlled by a board of managers including the CEO of GTL and other managers appointed by The Veritas Capital Fund III, L.P. and GS Direct, L.L.C. The Veritas Capital Fund III, L.P. is a private equity investment partnership managed by its sole general partner, Veritas Capital Partners III, L.L.C., a Delaware limited liability company. Veritas Capital Partners III, L.L.C. is controlled by its managing member, Robert B. McKeon, the managing member of Veritas Capital Fund Management, L.L.C., d/b/a Veritas Capital. Veritas Capital is a private equity investment firm headquartered in New York.

The Goldman Sachs Group, Inc. owns all of the equity interests in GS Direct, L.L.C. All of the limited partner equity interests in Goldman, Sachs & Co. are held directly or indirectly by The Goldman Sachs Group, Inc., and The Goldman, Sachs & Co. L.L.C. control Goldman, Sachs & Co. as its sole general partner. All of the equity interests (voting and non-voting) in The Goldman, Sachs & Co. L.L.C. are held by The Goldman Sachs Group, Inc., which is a public company listed on the New York Stock Exchange. GS Direct, L.L.C. invests capital primarily alongside corporate and sponsor clients in situations in which access to its or its affiliates' capital, relationships or advisory services can enhance the value of the investment.

### **3. APPLICATION FOR PAY TELEPHONE SERVICE AUTHORITY**

DSI seeks a CC&N to provide COPT service for use by inmates in correctional institutions within the state of Arizona. The rates, charges, terms and conditions for DSI's proposed COPT service are contained within DSI's customized tariff. The proposed tariff will only apply to payphone inmate environments. Three basic services are proposed by DSI –

Collect, Prepaid Collect and Institutional Prepaid. Collect calls will allow billing to residential or business lines; Prepaid Collect Service will allow recipients of collect calls from inmate facilities to set up a prepaid account with the Company from which such calls are decremented; Institutional Prepaid Service will allow inmates to set up prepaid accounts for outbound calling. Prepaid calls are originated when inmates enters unique personal identification numbers and destination numbers.

DSI will not be collecting customer deposits. A customer information placard was not provided with the application. DSI states in its application that payphones used in an inmate environment are highly specialized for security and public safety reasons. Therefore, rules that cover information to be provided on placards at public payphones are not applicable in an inmate environment.

Staff analysis confirms that DSI's proposed tariff matches the tariff authorized for COPT service by ITI in Decision No. 70949 on April 7, 2009. Therefore, Staff believes that the proposed tariff should be approved.

#### **4. APPLICATION TO PURCHASE AND TRANSFER ASSETS FROM ITI INMATE, INC**

ITI and DSI have entered into an Asset Purchase Agreement and Plan of Asset Transfer dated March 16, 2010 (the "Asset Purchase Agreement"). Pursuant to the terms of the Asset Purchase Agreement, DSI will purchase substantially all of ITI's assets used in the operation of the Business, and DSI will assume certain liabilities of ITI in connection therewith.

This transaction in conjunction with the COPT CC&N sought by DSI in Arizona will ensure continuity of service to the prison system and its inmates. Since DSI's business involves only the provision and operation of payphones, and of managed calling services originating from payphones, the transfer of the proposed assets will not change any end user's local exchange service or presubscribed toll service. The parties who make and receive calls through the COPT services form an ever-changing group as the prison population changes. Accordingly, no notification of customers making use of the managed telecommunications services is necessary or practical. ITI is not retaining any customers. Personnel at correctional facilities are being notified of the Transaction.

In its 2009 Annual Report, ITI reported confidential intrastate gross operating revenues of less than \$1 million while providing service in two county facilities.

#### **5. APPLICATION TO ENCUMBER AND/OR MORTGAGE ASSETS.**

Decision No. 69952, dated October 30, 2007, granted Global Tel\*Link Corporation the authority to encumber assets for security for debt financing up to \$250 million as provided for in their T-02871A-07-0094 application. In this application, DSI requests authority pursuant to A.R.S. § 40-285 to encumber and/or mortgage its assets in connection with the debt issuance authorized in Decision No. 69952.



A.R.S. § 40-285 requires public service corporations to obtain Commission authorization to encumber certain utility assets. The statute serves to protect captive customers from a utility's act to dispose of any of its assets that are necessary for the provision of service, thus, it serves to preempt any service impairment due to disposal of assets essential for providing service. Staff believes that the Applicant's proposal to encumber its Arizona assets may not inhibit its ability to continue to serve Arizona customers. In the event that the Applicant defaults on its debt obligation, its customer could readily procure similar services from alternate providers.

## **6. RECOMMENDATIONS**

Staff recommends approval of the DSI-ITI, LLC applications for a COPT CC&N without a hearing pursuant to A.R.S. § 40-282, approval of the purchase and transfer of assets of ITI Inmate Telephone, Inc. and for authorization to encumber and/or mortgage its assets pursuant to A.R.S. § 40-285. Further, Staff believes that advances, deposits, and/or prepayments received from an Applicant's customers should be protected by the procurement of either a performance bond or an Irrevocable Sight Draft Letter of Credit ("ISDLC"). Therefore, Staff recommends approval of DSI's proposed tariff on the condition that DSI procure a performance bond or ISDLC of \$10,000.

Additionally, Staff recommends cancellation of the COPT CC&N granted to ITI Inmate Telephone, Inc. on April 7, 2009 in Decision No. 70949. Upon cancellation of its CC&N, ITI Inmate Telephone, Inc. will no longer be authorized to provide COPT service in Arizona and therefore, will no longer be subject to the requirements of Decision No. 70949.